

**CERTIFICATE OF ELECTRONIC  
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I hereby certify that this correspondence  
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2006.

/David H. Brinkman/                    8/28/06  
David H. Brinkman, Reg. No. 40,532      Date

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Erik E. Emstad et al.  
Serial No.: 10/726,329  
Filed: December 1, 2003  
Examiner: Unknown  
Group Art Unit: 3732  
Confirmation No.: 3659  
Title: **SPINAL ACCESS INSTRUMENT**  
Atty Docket No.: ZMS-MI18US (SPN0405 ORD)

Cincinnati, Ohio 45202

August 28, 2006

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Dear Sir:

In accordance with the duty of candor and good faith imposed by 37 C.F.R. § 1.56, and means of complying therewith according to 37 C.F.R. §§ 1.97 and 1.98, the references listed on the attached Form PTO-1449 are called to the attention of the United States Patent and Trademark Office in connection with the above-identified patent application. Because the requirement (37 C.F.R.

§ 1.98(a)(2)(i)) for submitting copies of U.S. patents and published applications has been waived, copies of only the foreign cited references and/or other documents are enclosed herewith. A copy of a European Search Report received in Applicants' corresponding European Application Serial No. 04251366.3 is also enclosed. EP0807415A issued to Olympus Optical Co., Ltd., U.S. Patent No. 3,875,595 issued to Froning, U.S. Patent No. 4,545,374 issued to Jacobson, U.S. Patent No. 5,472,426 issued to Bonati et al., U.S. Patent No. 6,228,022 issued to Friesem Tai et al. and U.S. Patent Application Publication No. 2003/0083688 issued to Simonson are previously of record as they were cited by Applicants in the above-identified application on June 19, 2006.

**Certification under C.F.R. § 1.97(e)(1)**

Each item of information contained in the Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.

**Certification under 37 C.F.R. § 1.704(d)**

Each item contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and was not received by any person designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

Applicants do not believe that any fees are due in connection with this response. However, if such petition is due or any other fees are necessary, the

Commissioner may consider this to be a request for such and charge any necessary fees to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

BY David H. Brinkman

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